

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DANIEL S. GREEN,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 05-549-KAJ
)	
)	
RADCLIFF CHARLES,)	
BRADFORD APA, LYLE BRYANT,)	
HORACE DUGGINS, GARLAND)	
WILLIAMS and Cpl. DANELLI)	
)	
Defendants.)	

DEFENDANTS' ANSWER TO THE COMPLAINT

COMES NOW, the Defendants Bradford Apa, Lyle Bryant, Horace Duggins, and Garland Williams by and through their undersigned counsel, and hereby respond to the Complaint of Plaintiff Daniel S. Green ("Green" or "Plaintiff"), filed July 29, 2005 (D.I. 2) (the "Complaint"). The Complaint is not formatted in paragraphs nor is it numbered. Therefore Defendants respond to the Complaint by sentence as follows:

STATEMENT OF CLAIM

Denied that Plaintiff's civil liberties were denied in any manner. Denied that any Defendant used excessive force on Plaintiff on either August 23, 2004 or January 24, 2005. Denied that Plaintiff suffered any injury at the hands of Defendants on either August 23, 2004 or January 24, 2005. Denied that Defendants assaulted Plaintiff on either August 23, 2004 or January 24, 2005. Denied that Defendants caused exacerbation of any alleged hand injury claimed by Plaintiff. Denied that Defendants caused Plaintiff any mental pain and suffering due to the events of August 23, 2004 and January 24, 2005. Admitted that the Quick Response Team

(“QRT”) needed to respond due to Plaintiff’s disruptive, disorderly, non-compliant and violent conduct on August 23, 2004 and January 25, 2005.

RELIEF

Denied that Plaintiff is entitled to any relief.

DEFENSES and AFFIRMATIVE DEFENSES

1. This action and all claims are barred by Eleventh Amendment immunity.
2. The Defendants are entitled to qualified immunity.
3. This action fails to state a claim upon which relief can be granted.
4. The Plaintiff has failed to exhaust his administrative remedies.
5. As to any claims under state law, the Defendants are entitled to immunity under the State Tort Claims Act, 10 Del. C. § 4001 *et seq.*
6. As to any claims under State law, the Defendants are entitled to sovereign immunity in their official capacities.
7. The Plaintiff’s claims are barred by his comparative negligence.
8. This action is barred by the principles of *res judicata* and collateral estoppel.
9. Insufficiency of service of process.
10. Insufficiency of process.
11. Lack of personal jurisdiction.
12. Lack of subject matter jurisdiction.
13. The Plaintiff lacks standing.

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Lisa Barchi
Lisa Barchi, I.D. # 3927
Deputy Attorney General

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Wilmington, DE 19801
(302) 577-8400
lisa.barchi@state.de.us
Attorney for Defendants

Date: May 19, 2006

CERTIFICATE OF MAILING AND/OR DELIVERY

I hereby certify that on May 19, 2006, I electronically filed *Defendants' Answer to Plaintiff's Complaint* with the Clerk of Court using CM/ECF I hereby certify that on May 19, 2006 I have mailed by United States Postal Service, the document to the following non-registered participant:

Daniel S. Green
821 Bennett Street
Wilmington, DE 19801

**STATE OF DELAWARE
DEPARTMENT OF JUSTICE**

/s/ Lisa Barchi
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Attorney for Defendants